

CITY OF LODI

RESOLUTION NO. 85-28

RESOLUTION OF INTENTION TO ISSUE BONDS TO  
FINANCE A MULTIFAMILY HOUSING DEVELOPMENT  
TO BE KNOWN AS HUTCHINS APARTMENTS

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WHEREAS, the City of Lodi (the "City") is authorized by the provisions of Chapter 7 of Part 5 of Division 31 of the Health and Safety Code of the State of California (the "Law") to issue revenue obligations for the purpose of financing multifamily rental housing developments; and

WHEREAS, the City has been requested to issue and sell its revenue bonds for the purpose of financing a multifamily rental housing development of approximately 18 units, to be located at 218 South Hutchins Street, in the City, and to be known as Hutchins Apartments (the "Project"), to be acquired and constructed by Bennett & Compton, Inc. (the "Developer"); and the City wishes to induce the Developer to acquire and construct the Project at said location; and

WHEREAS, it is in the public interest and for the public benefit that the City authorize such financing for the Project, and it is within the powers of the City to provide such financing; and

WHEREAS, in order to expedite the financing of the Project, the City deems it advisable to select bond counsel and an underwriter at this time;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Lodi as follows:

1. The City will issue, in one or more series, at one time or from time to time, bonds in an aggregate principal amount not to exceed \$750,000 to provide financing for the Project, subject to the conditions that (i) the City Council by resolution shall have first agreed to acceptable terms and conditions for the bonds and for the sale and delivery thereof, and for an indenture, a financing agreement and all other agreements with respect to any of the foregoing; (ii) all requisite governmental approvals,

including without limitation environmental approvals, shall have first been obtained; (iii) the bonds shall be payable solely from revenues received with respect to loans or other investments made with the proceeds of such bonds, and neither the full faith nor the credit of the City shall be pledged to the payment of the principal of or interest on any such bond; (iv) the City and the Developer shall have entered into a preliminary agreement concerning the financing, in substantially the form before this meeting, with such additions or deletions as are considered necessary or appropriate by officers of the City and the Developer, and the Mayor or other appropriate officer of the City is hereby authorized and directed to execute said preliminary agreement for and in the name and on behalf of the City; and (v) the Project shall meet any federal requirements for tax exemption of interest on the bonds and any requirements of the City applicable to such financings.

2. The Mayor and other officers of the City are hereby authorized and directed to participate in the preparation of any resolution, indenture, financing agreement, bond purchase agreement, official statement and/or other documents or agreements necessary or appropriate to effect such financing.

3. In connection with the proposed issuance of such bonds, Orrick, Herrington & Sutcliffe is hereby selected and designated as bond counsel for the City.

4. It is the purpose and intent of the City that this Resolution constitute official action toward the issuance of obligations by the City in accordance with Section 1.103-8(a)(5)(iii) of the Regulations of the United States Department of the Treasury.

5. This Resolution shall take effect immediately.

PASSED AND ADOPTED this 6th day of February, 1985,  
by the following vote:

Ayes: Council Members - Hinchman, Olson, Reid, and Snider

Noes: Council Members - None

Absent: Council Members - Pinkerton

John R. Snider  
Mayor

[SEAL]

Allen M. Baumcke  
City Clerk

PRELIMINARY AGREEMENT

The purpose of this Agreement is to set forth certain terms and conditions under which the City of Lodi (the "City") will agree to assist in the financing of a multifamily housing development (the "Project") for Bennett & Compton, Inc. (the "Developer"), by issuing revenue bonds (the "Bonds"), subject to the conditions set forth herein and in Resolution No. \_\_\_\_\_ of the City.

In consideration of the City's expression of willingness to provide such financing, the Developer hereby agrees as follows:

1. The Developer agrees to pay, or to make arrangements for persons other than the City to pay, all costs involved in the issuance of the Bonds, including by way of example and not limitation, fees and disbursements of bond counsel, underwriters or financial advisors, and any other experts engaged by the City or by the Developer or any related entity in connection with the issuance of the Bonds, bond printing and other printing costs, publication costs, filing fees, and costs incurred in order to obtain a rating for the Bonds. Such costs may be paid from proceeds of sale of the Bonds. In the event that the Bonds are not issued for any reason, the Developer agrees to pay all of such costs and assume the City's obligations, if any, for payment of such costs.

2. The Developer agrees to pay the cost of preparation of any studies, reports or other documents necessary to be prepared by or for the City to comply with the California Environmental Quality Act.

3. The Developer agrees to pay any and all costs incurred by the City, including without limitation, administration expenses, to be paid by a non-refundable administration fee in the amount of one-quarter of one percent (.25%) of the principal amount of the financing, due at the close of the financing, legal expenses and the amount of any judgment or settlement which follows proceedings in which the Developer is given an opportunity to participate, in connection with any legal action challenging the issuance or validity of the Bonds or use of the proceeds thereof.

The City agrees to proceed, and to direct bond counsel to proceed, with the planning and preparation of the necessary proceedings for the offering of the Bonds for sale to finance the Project. The Developer understands that this Agreement does not exempt it from any requirements of the

City or any department or agency thereof or other governmental body that would apply in the absence of the proposed Bond financing, and compliance with such requirement is an express precondition to the issuance of the Bonds by the City.

The City authorizes the hiring of Mr. Pat Cunningham of The Cunningham Company as financial consultant to the Developer, all of the fees and expenses of said financial consultant to be paid by the Developer.

The Developer further understands and agrees that the issuance of any Bonds by the City is contingent upon the City being satisfied with all of the terms and conditions of the Bonds and the issuance thereof, and that such issuance is in the best interests of the City, and that the City shall not be liable to the Developer or any other person if the City shall determine for any reason not to issue the Bonds.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this \_\_\_\_ day of \_\_\_\_\_, 1985.

CITY OF LODI

Attest: Alice M. Reimche,  
City Clerk

By: \_\_\_\_\_  
Title: Mayor

BENNETT & COMPTON, INC., A  
California Corporation

By: \_\_\_\_\_  
Title: \_\_\_\_\_